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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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23552 7590 12/20/2004			EXAMINER	
MERCHANT & GOULD PC			ARMSTRONG, ANGELA A	
P.O. BOX 2903			ART UNIT	
MINNEAPOLIS, MN 55402-0903			PAPER NUMBER	
			2654	
DATE MAILED: 12/20/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/019097	Applicant(s) HERMANN ET AL	
	Examiner Angela A. Armstrong	Art Unit 2654	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 December 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12/20/2001</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Lemelson (US Patent No. 5,548,660).
2. Regarding claim 1, Lemelson discloses a control device for controlling at least one automatic machine (Figure 2) comprising identification means whereby a person who is authorized to use or to program the automatic machine can be identified, the identification means comprising a vocal control system which identified an individual authorized person on the basis of previously stored speech patterns and/or voice patterns (col. 5, lines 10-24); a security device that is controlled by the identification means in such a way as to permit or to block access to the vocal control system, depending on whether identification has been succeeded and (Figure 2, col. 5, lines 40-63); (c) speech-pattern-analyzing means that recognizes specific speech-pattern inputs by reference to a speech-pattern library and that associates recognized speech-pattern inputs with particular parameters to be controlled, channels them and converts them to control signals such that a specified hardware/software receiving section of the automatic machine concerned received the control signal from the vocal input (col. 6, line 57 to col. 7, line 3).

Regarding claim 2, Lemelson teaches the identification means is designed to analyze the speech signals that are input with respect to a key word (col. 10, lines 33-46).

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Regarding claim 3, Lemelson teaches the identification means is designed to analyze the individual speech signals with respect to both a key word and a voice pattern (col. 10, lines 33-46).

Regarding claim 4, Lemelson teaches an identification data bank is provided, which stores several voice patterns and/or key words so as to identify several authorized persons (col. 6, line 57 to col. 7, line 3).

Regarding claim 5, Lemelson teaches the security device can be activated and inactivated (col. 2, lines 48-56; col. 4, line 66 to col. 5, line 3; col. 3, lines 43-47).

Regarding claim 6, Lemelson teaches an indicator that signals both a correctly identified vocal input and also an erroneous, unidentified vocal input (col. 1, line 65 to col. 2, line 5).

Regarding claim 7, Lemelson teaches automatic machines of the same kind or different kinds, which are connected to one another by a network and can each be identified and controlled by its own identification number (col. 10, lines 33-46).

Regarding claim 8, Lemelson teaches every automatic machine is assigned its own key word, so that even such machine can be identified and selected for a control process by means of a specific key word (col. 10, lines 33-46).

Regarding claim 9, Lemelson teaches a data-collection system which collects the vocal data that have been input and evaluated and which is connected to a cashier system so that the identified and evaluated vocal data can be employed to generate a printed bill (col. 2, lines 57-62).

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Regarding claim 10, Lemelson teaches the identification apparatus is designed so that it can classify vocal inputs of different authorized persons according to priorities (col. 5, lines 58-64).

Regarding claim 11, Lemelson teaches the classification is carried out with reference to a voice analysis and/or with reference to various key words (col. 10, lines 33-46).

Regarding claim 12, Lemelson teaches the identification apparatus and the speech recognition device are implemented as a software program that can run on a personal computer (Figure 2).

Regarding claim 13, Lemelson teaches a switch that can occupy at least two positions, such that placing the switch in a first position enables a speech pattern to be recorded, and in a second position of the switch a speech pattern can be identified (col. 3, line 56 to col. 4, line 20).

Regarding claim 14, Lemelson teaches the switch is implemented by software and can be controlled by the speech-pattern recognition device in such a way that after a user or an authorized person has been successfully identified; the switch is automatically turned to "RECORD" (col. 3, line 56 to col. 4, line 20).

Regarding claim 15, Lemelson teaches a clearing device, in particular in the form of a key switch or infrared switch, which can turn the switch to "RECORD" (col. 3, line 56 to col. 4, line 20).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lemelson in view of Buchner et al (US Patent No. 6,535,854).

4. Regarding claim 16, Lemelson does not teach a wireless microphone or wireless ordering system that is radio communication with the control device. Buchner teaches a system for speech recognition control of remotely controllable devices in a home network environment, which provides for wireless capabilities so that the user can take the speech control unit with them to use in the home, car, work, or other networks (col. 7, lines 29-67).

It would have been obvious to one of ordinary skill at the time of the invention to modify the system of Lemelson to implement wireless capabilities, as suggested by Buchner, for the purpose of providing to the user vocal control of a plurality of devices in a plurality of environments and/or networks.

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Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
6. Launey (US Patent No. 5,086,385) discloses an expandable home automation system that can be controlled by vocal commands.
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Angela A. Armstrong whose telephone number is 703-308-6258. The examiner can normally be reached on Monday-Thursday 7:30-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richemond Dorvil can be reached on (703) 305-9645. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Angela A. Armstrong
Examiner
Art Unit 2654

AAA
December 06, 2004

Angela Armstrong